

## REMARKS

Entry of the foregoing, reexamination and reconsideration of the subject application, in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

### I. Amendment to the Claims

Claims 2-4, 12, 16, and 24 are pending in the application. By the foregoing amendment, claim 24 has been amended. Support for the amendment to claim 24 can be found at least on page 6, lines 8-18 and page 24, Table 1 of the application. Claim 11 has been canceled without prejudice or disclaimer to the subject matter recited therein.

### II. Objection to the Specification

The Examiner has objected to the specification for allegedly failing to provide proper antecedent basis for the claimed subject matter, *i.e.*, for a “**chemical** compound library.” See OFFICE ACTION 2-3. This rejection is respectfully traversed.

The specification positively recites a “chemical compound library” on at least on page 7, line 2. Moreover, an objection or rejection relating to proper antecedent basis generally applies to claims not the specification. Thus, the basis for this objection appears to be misplaced. Accordingly, withdrawal of the objection is requested.

### III. Claim Rejections Under 35 U.S.C. § 112

A. The Examiner has rejected claim 24, as amended, under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the written description requirement. See OFFICE ACTION at 3-4. This rejection is respectfully traversed. However, to expedite prosecution in the present application, and not to acquiesce to

the Examiner's rejection, claim 24 has been amended to recite a method corresponding to that disclosed on page 6 of the specification. Accordingly, reconsideration and withdrawal of the rejection is requested.

**B.** The Examiner has also rejected claims 2-4, 11-12, 16, and 24-26, as amended, under 35 U.S.C. § 112, second paragraph, as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, namely for reciting the term "specifically." See OFFICE ACTION at 4-5. This rejection is respectfully traversed. However, to expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection claim 24 has been amended to remove the term "specifically." Accordingly, it is respectfully submitted that the rejection is moot.

#### **IV. Claim Rejection Under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 2-4, 11-12, 16, and 24-26 under 35 U.S.C. § 103(a) as purportedly unpatentable over Laing (U.S. Patent No. 6,331,392) in view of Le et al. (U.S. Patent No. 6,132,968). See OFFICE ACTION at 5-11. This rejection is respectfully traversed.

To support an obviousness rejection, all of the claim limitations must be taught or suggested by the prior art applied and that all words in a claim must be considered in judging the patentability of that claim against the prior art. See *In re Royka*, 490 F.2d 981, 984-85 (CCPA 1974); *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970)).

It is respectfully submitted that the references, as applied, fail to disclose or suggest the particular probes and binding factors recited in claim 24 as currently

amended. The remaining claims depend directly or indirectly from claim 24.

Accordingly, withdrawal of the obviousness rejection is respectfully requested.

#### **V. Double Patenting Rejection**

The Examiner has rejected claims 2, 11, 16, and 24-26 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 9 of U.S. Patent No. 6,132,968 ("the '968 patent") in view of U.S. Patent No. 6,331,392 (the '392 patent"). See OFFICE ACTION at 11-15. This rejection is respectfully traversed.

It is respectfully submitted that claim 24 as amended is patentably distinct from the claims in the '968 patent in view of U.S. Patent No. 6,331,392. The claims of the '968 patent relate to "a sample suspected of containing a deoxyribonucleic nucleic acid sequence." In contrast, the binding factors recited in the present claims are "selected from the group consisting of vancomycin antibody, trp operator-repressor, and staphylococcal enterotoxin A antibody." Neither the '968 patent nor the '392 patent disclose or suggest the particular probes and binding factors recited in claim 24.

The remaining claims depend directly or indirectly from claim 24. Accordingly, withdrawal of the double patenting rejection is respectfully requested.

#### **CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

In the event that there are any questions concerning this Amendment and Reply or the application in general, the Examiner is respectfully requested to telephone the undersigned so that prosecution of the application may be expedited.

Respectfully submitted,

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